

**TOWN OF ST. MICHAELS
INSTRUCTIONS TO BIDDERS**

1. BIDS:

A. Sealed bids will only be accepted by the Town of St. Michaels if submitted in accordance with these instructions, the General Conditions and any other attached bid documents. A bid security in the amount of Five Percent (5%) of the bid amount in the form of a bid bond, bank draft, bank cashier's check or certified check made payable to the Town of St. Michaels, Maryland shall accompany this bid.

B. Proposals must be submitted in a sealed envelope containing one (1) original and one (1) digital copy (i.e., CD or jump drive). Submissions made by email will not be accepted. marked with the project name.

2. QUALIFICATIONS OF BIDDERS:

The Town may make such investigation as it deems necessary to determine the ability of the Bidder to furnish the services and the Bidder shall furnish to the Town all such information and data for this purpose that the Town may request. The Town reserves the right to reject any bid if the evidence submitted by the Bidder or an investigation of such Bidder fails to satisfy the Town that such Bidder is properly qualified to carry out the obligations of the contract.

3. RESERVATIONS:

A. The Town reserves the right to waive formalities or technicalities in bids as the interests of the Town may require.

B. The Town may waive minor differences in specifications provided these differences do not violate the intent of the specification or materially affect the operation for which the item is being acquired.

C. Bids that show omission, irregularity, alteration of forms, or additions not called for, and conditional or unconditional, unresponsive bids or bids obviously unbalanced may be rejected.

D. The Town reserves the right to award contracts on a lump sum or an individual item basis or such combination thereof as the interests of the Town may require. The manner in which the award will be made is indicated on the Bid Summary Sheet.

E. The Town reserves the right to purchase additional like units at the same unit cost.

F. If in the Town's judgment, the Town's best interest will be served by doing so, the Town reserves the right to reject any and/or all bids; to accept a portion of a bid or bids only; to advertise for new proposals; to proceed to do the work otherwise; or to abandon the work.

4. REQUIRED ATTACHMENTS TO BIDS:

Each bid shall be accompanied by the documents identified on page one of the sample agreement (attached).

5. ACCEPTANCE OR REJECTION OF BIDS; RESERVATIONS:

Unless otherwise provided in the Scope of Work, the Town will accept or reject bids within sixty (60) days of the date set for opening bids. The Town reserves the right to reject or accept any or all bids or portion thereof where such acceptance or rejection would, in the Town's sole discretion, be in the best interest of the Town, and further reserves the right to reduce or modify the scope of the Project in order to meet funding limits, budget and scheduling constraints.

6. NOTICE OF AWARD, SIGNING OF CONTRACT AND BONDS:

The successful Bidder agrees to sign a contract in substantially the form included in the Request for Proposals, and to submit required certificates of insurance and, if applicable, required payment and performance bonds, within ten (10) days of notice of award. Failure of the Bidder to do so may result in the loss of its bid security and/or its contract award.

7. BID WITHDRAWALS:

Prior to the time of opening, bids may be withdrawn only upon written request received from Bidder. No Bidder may withdraw its bid for a period of sixty (60) days after opening of the bids.

8. ADDENDA:

Any addenda issued after the invitation to bid and before the opening of bids shall be covered in the proposal, and in closing the contract they shall become a part thereof. Bidders will be required to submit a signed and dated copy of the addenda as acknowledgement of receipt.

9. SPECIFICATIONS:

Bidders must examine the specifications carefully. In case doubt shall arise as to the meaning or intent of anything shown in the specifications, inquiry shall be made of the Town before the proposal is submitted. The submission of a proposal shall indicate that the Bidder thoroughly understands the terms of the bid and the specifications.

10. TAXES:

The Contractor shall pay all sales, consumer, use and other similar taxes required by applicable law to be paid with respect to the work performed or the materials or equipment furnished. The Town of St. Michaels is exempt from the payment of such taxes with respect to items purchased directly.

11. BID FORMS:

A. When a Bid Form and attachments are included in the bid package, bids shall be submitted on the attached forms and shall be filled out in full, in ink or by typewriter. If changes

and erasures are made, such changes and erasures shall be clear and legible, and shall be initialed by the person signing the Bid Form. The Bid Form may provide for submission of a price or prices for one or more items, which may be lump sum Bids, alternate prices, or scheduled items resulting in a Bid on a unit of construction or a combination thereof, or other Bidding arrangements. Unless specifically called for, alternate Bids will not be considered.

B. Bids in which the prices obviously are unbalanced may be rejected. Unbalanced prices shall be interpreted to mean that the unit price for any items is such that it is unreasonable for that particular item when considered by itself and not considered in connection with the bid submitted on any other item or items.

C. Bids shall be based on products, materials and methods named in the Contract Documents.

D. The Bidder must detach the completed Bid Form and required attachments and submit them in a sealed, opaque envelope bearing the Bidder's name and address at the time and place indicated on the Invitation to Bid. Bids may be modified or withdrawn at any time prior to the opening of bids. Signing of Bids shall comply with instructions on the Bid Form.

E. Bids received after the designated time for the public bid opening will be returned to the Bidder unopened.

F. Unless, otherwise provided in the Scope of Work, bids will be publicly opened and read aloud at the time and place set forth in the Invitation to Bid. Only bid totals will be publicly read at the Bid Opening. Bidders and other interested parties may be present either in person or by representative. Unit prices will be made available after verification by the Town. In case of discrepancy between prices in writing and in figures, the writing shall govern. In case of error in the extension of prices in the Bid, unit prices will govern.

12. EXECUTION OF THE CONTRACT:

A. Copies of the Contract (Agreement Form) are included with the bid package. Changes may be made to the Contract form in the sole discretion of the Town and the Bidder should not rely on an expectation of changes in the Contract form.

B. The Bidder to whom the Contract is awarded shall return two copies of the Contract and such other Documents as required by the Contract Documents properly executed to the Town within seven (7) days after the date of issuance of the Notice of Award. The Owner will execute the Contract within 7 days after receipt of the Contractor's executed Contract Form.

C. Failure by the Contractor to execute the Contract and submit such other Documents as required by the Contract Documents and file acceptable insurance and bonds within the time aforesaid shall be just cause for annulment of the Award. Award may then be made to the next

lowest responsible Bidder or the Work may be re-advertised and constructed under Contract or otherwise, as the Town may decide.

D. By executing the Contract, the Contractor represents that it has familiarized itself with, and assumes full responsibility for having familiarized itself with, the nature and extent of the Contract Documents, the work, and the site, and all federal, State and local laws, ordinances, rules and regulations that may in any manner affect performance of the Work, and represents that it has correlated its study and observations with the requirements of the Contract Documents. The Contractor also represents that it has studied all surveys and investigation reports of subsurface and latent physical conditions referred to in the Contract Documents and made such additional surveys and investigations as it deems necessary for the performance of the Work at the Contract Price in accordance with the requirements of the Contract Documents and that it has correlated the results of all such data with the requirements of the Contract Documents.

13. AFFIDAVIT OF NON-COLLUSION AND NON-CONVICTION:

Pursuant to § 16-311 of the State Finance and Procurement Article of the Annotated Code of Maryland, any person who has (1) been convicted of bribery, attempted bribery or conspiracy to bribe, under laws of any state or of the federal government; (2) been convicted under a State or federal law or statute of any offense enumerated in § 16-203 of this title; or (3) been found civilly liable under a State or federal antitrust statute as provided in § 16-203 of this Title 16 shall be disqualified from entering into a Contract with the Owner.

A Bidder shall complete and submit with its bid the attached notarized Anti-Bribery Affidavit. The affiant shall also swear or affirm under the penalties of perjury that the Bidder has not been a party with other bidders to any agreement to bid a fixed or uniform price and shall also contain an affirmation that the bidder shall not knowingly enter into a contract with the Town under which a person or business debarred or suspended under Title 16, Subtitle 3 will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

14. BID SUBMITTAL LIMIT:

A Bidder may submit only one Bid for each Contract. More than one Bid from an individual, firm or partnership, corporation or association under the same or different names will not be considered, and will be considered grounds for disqualification of the Bids involved, and rejection of the Bids.

15. GRANT-FUNDED CONTRACTS:

This Agreement may be funded, in whole or in part, using federal or State grant funds and may

therefore be subject to conditions imposed by regulations of the governmental entity providing such funds. Such funding, if any, will be identified in the description of the Work or Services included with this RFP. It is the Bidder's responsibility to determine the scope and requirements of and to comply with the terms of any regulations relating to or governing the use of such grant funds. Such regulations may under certain circumstances include, but are not limited to, payment of prevailing wage rates, the purchase of materials manufactured in the United States, the maintenance of specific records for specific periods of time, and/or approval of subcontracts.

16. SUBMISSIONS ARE PUBLIC INFORMATION:

The affidavit required by Section 12 of these Instructions to Bidders shall also indicate the Bidder's understanding that all documents, information and data submitted in its Bid/Proposal shall be treated as public information unless otherwise indicated.

**TOWN OF ST. MICHAELS
GENERAL CONDITIONS**

1. DISPUTES:

In cases of disputes as to whether or not an item or service quoted or delivered meets the specifications, the decision of the Town shall be final and binding on both parties.

2. COMPLETION OF WORK:

A. The Contractor for this work will be expected to deliver the product within the number of calendar days stipulated in the bid proposal.

B. If the Contractor is delayed at any time in the delivery of the products by any act or negligence of the Town, or by any act or negligence by separate contractor employed by the Town, or that of any employee of either, or by any changes ordered in the materials or by strike, lockout, fires, unusual delays in transportation, unavoidable casualties or any causes beyond the Contractor's control, or by delay authorized by the Town, the Town shall decide the permissible extent of such delay.

C. Failure to complete the Services within the time provided for in the contract documents may cause the Town to incur economic and non-economic damages and losses of types and in amounts that are impossible to compute and ascertain with certainty and accuracy. Accordingly, in lieu of actual damages for such delay, when the Town, in its judgment, determines that such circumstances exist, such liquidated damages as are set forth in the contract may be assessed and recovered by the Town as against the Contractor and its Surety, in the event of delayed completion and without the Town being required to present any evidence of the amount or character of actual damages sustained by reason of the delay. It shall be acknowledged by the Contractor that such liquidated damages represent estimated actual damages and are not intended as a penalty and the Contractor shall pay them to the Town without limiting the Town's right to terminate the Agreement for default as provided elsewhere therein. Should a Bidder require specific information about the nature and amount of liquidated damages, if any, to be included in a contract for a particular project, the Bidder is advised to make inquiry prior to bidding.

3. FAILURE TO DELIVER:

In the event the Contractor fails to deliver the services and materials covered by the contract and in accordance with the delivery terms stipulated in the contract, then the Town will have the right to purchase on the open market the services and/or materials covered in the Bid Proposal and shall have as damages the cost of obtaining such services and/or materials and any additional costs incurred by the Town as a result thereof.

4. PERFORMANCE AND PAYMENT BONDS:

FOR CONSTRUCTION AND INSTALLATION CONTRACTS. The successful bidder will be required to give Performance and Payment Bonds or Letters of Credit acceptable to the Town within ten (10) days after the date of the award of the contract. The Performance Bond or Letter of Credit shall be one hundred percent (100%) of the contract price, conditioned upon the Contractor complying in all respects with the terms and conditions of its contract, and indemnifying the Town against and from all costs, expenses, damages, injury or loss to which said Town may be subjected by reason of any wrong doing, misconduct, want of care or skill, negligence or default upon the part of the Contractor in the execution or performance of this contract. The Payment Bond or Letter of Credit will be fifty percent (50%) of the contract price. These Bonds or Letters of Credit shall be executed with the same surety. Whenever the surety on the bonds or letters of credit so furnished shall be deemed by the Town to be insufficient or unsatisfactory, the Contractor shall, within ten (10) days after notice to that effect, furnish and deliver new bonds or letters of credit to the Town in the same penalty and on the same conditions, with surety satisfactory to the Town, and this duty shall continue on the part of the Contractor, whenever and so often as the Town shall require new bonds or letters of credit with a satisfactory surety. If the Contractor shall fail to furnish such bonds or letters of credit within ten (10) days after said notice is mailed to his address, the Town through its proper agent, may stop all further work under the Contract and re-let the unfinished work at the expense of the Contractor.

5. MAINTENANCE BOND:

FOR CONSTRUCTION OR INSTALLATION CONTRACTS: The Contractor will be required to issue a Maintenance Bond in the amount of 5% of the Contract amount for a period of one year from the date of substantial completion. Such bond will designate the Town as the Obligee and the Contractor as the Principal. The Bond shall be executed by the Contractor and a corporate bonding company licensed to transact such business in the State of Maryland. The expense of this Bond shall be borne by the Contractor. If at any time a Surety on any such Bond is declared bankrupt or loses its right to do business in the State of Maryland, the Contractor shall, within 10 days after notice from the Surety Company, substitute an acceptable Bond in such form and sum and signed by such other surety or sureties as may be satisfactory to the Town. The premiums on such Bond shall be paid by the Contractor. No further payments shall be deemed due or shall be made until the new surety or sureties shall have furnished an acceptable Bond to the Town. Should the Contract price be increased by 25% or more before Final Acceptance, the amount of the Maintenance Bond shall be increased accordingly.

6. **INSURANCE:**

Unless otherwise provided in the Scope of Work or template agreement, the Contractor shall maintain the following insurance coverages, and shall provide Certificates evidencing such insurance to the Town before beginning work. Certificates of Insurance shall be on an occurrences basis. **The Contractor shall name the Town as additional insured to the required insurance policy and will furnish a Certificate of Insurance or other acceptable evidence of insurance coverage to the Town upon signing the contract.**

A. **Comprehensive Liability Insurance:** Limits of Coverage (Applies ONLY to Contractors performing services in and/or for the Town; NOT for supply only Contracts) Limits of coverage for commercial general liability and broad form property damages coverage are to be no less than One Million Dollars (\$1,000,000.00) occurrence/One Million Dollars (\$1,000,000.00) aggregate personal injury and death and Two Hundred Fifty Thousand Dollars (\$250,000.00) property damage/ Five Hundred Thousand Dollars (\$500,000.00) aggregate, where insurance aggregates apply. Property damage insurance shall specifically include explosion, collapse, and underground damage (X, C, U).

B. **Automobile Liability Insurance.** Motor vehicle insurance meeting the requirements of Maryland law and covering every vehicle and driver involved in providing the services, in the following amounts:

- (1) Bodily injury liability with limits of \$500,000.00 each person and \$1,000,000.00 each accident;
- (2) Property damage liability with a limit of \$100,000 each accident.

C **Workers' Compensation:** Failure of the Contractor to maintain Worker's Compensation coverage for the duration of the contract will result in the Town deducting from each payment made under this contract, to the Contractor, a pre-determined percentage to defray coverage costs of the Town. Contractor shall comply with the requirements and benefits established by the State of Maryland for the provision of Workers' Compensation.

D. **Professional Liability:** For contracts involving professional services, and unless a different amount is specified in the Scope of Work or template agreement, the Contractor shall provide Professional Liability insurance in the amount of \$3,000,000 per occurrence, 5,000,000 aggregate

7. **INDEMNIFICATION:**

The Contractor will be required to indemnify, defend and hold the Town harmless against any and all liability to any person or persons for or by any reason of any condition or

malfunction of the materials used, and against any and all claims made or liability to any person or persons by reason of any act or omission or negligence of the Contractor or any of its agents, servants, or employees. This indemnification shall include reasonable attorneys fees incurred by the Town in connection with such claim or liability.

The Town has the right to inspect and test all services and materials called for by the contract, to the extent practicable at all times and places during the term of the contract. The Town shall perform inspections and tests in a manner that will not unduly delay the work. If any of the services and/or materials do not conform to contract specifications, the Town may require the Contractor to perform the service or again provide a replacement product in conformity with contract specifications, at no increase in contract amount.

TOWN OF ST. MICHAELS
Equal Opportunity Employer
And
Drug Free Workplace Certification

I hereby affirm that this company does not discriminate in any manner against any employee or applicant for employment because of age, race; national origin or ethnicity; sex, pregnancy, gender identity or family status; creed or religion; disability; or membership in any other protected class.

I hereby affirm that this company complies with all applicable federal, state and local laws and policies and programs regarding drug, alcohol and a smoke free work place.

Bidder: _____
Type/Print Name of Firm

Address: _____

City/State: _____
Zip Code

By: _____
Signature of Person Authorized to Sign Bid

Type/Print Name and Title of Person
Authorized to Sign Bid

BID BOND

BOND NO. _____

BID REQUEST NO. _____

KNOW ALL PERSONS BY THESE PRESENTS, That we, _____ hereinafter called the Principal, as Principal, and of _____ a Corporation duly organized and existing under the laws of the State of _____ and authorized to do business in the State of Maryland, hereinafter called the Surety, as Surety, are held and firmly bound unto, the Town of St. Michaels, hereinafter called the Oblige, in the sum of _____ Dollars (\$_____.00), good and lawful money of the United States of America, to be paid upon demand of the Oblige, for payment of which sum well and truly to be made, we bind ourselves, our trustees, receivers, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT the Principal has submitted to the Oblige a Bid for furnishing all labor, materials, equipment and incidentals thereto necessary for work generally described as:

This Bid Bond shall be governed by and construed in accordance with the laws of the State of Maryland and any reference herein to Principal or Surety in the singular shall include all entities in the plural who or which are signatories under the Principal or Surety heading below.

NOW, THEREFORE, if the Oblige shall accept the Bid of the Principal and the Principal shall enter into a written agreement with the Oblige in accordance with the terms, conditions and price(s) set forth therein, and furnish such insurance and give such bond or bonds as may be specified in the Bidding or Contract Documents with good and sufficient surety for the faithful performance of such Agreement and for the prompt payment of labor and materials furnished in the prosecution thereof, then this obligation shall become null and void; otherwise, it shall remain in full force and effect; and the Surety shall, upon failure of the Principal to comply with any or all of the foregoing requirements immediately pay to the Oblige, upon demand, the amount hereof in good and lawful money of the United States of America, not as a penalty, but as liquidated damages.

Provided, however, that the Surety shall not be liable to the Oblige on this bond for any amount in excess of the principal amount hereof.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its Bond shall in no way be impaired or affected by any extension of the time within which the owner may accept such proposal, and said Surety hereby waives notice of any such extension.

IN TESTIMONY WHEREOF, the Principal and Surety have caused these presents to be duly signed and sealed this _____ day of _____, 20____.

Principal

By _____ (Seal)

Official Title

Surety

By _____
Attorney-in-Fact

By _____
Maryland Agent

(Accompany this bond with Attorney-in-Fact's authority from Surety Company certified to include the date of the bond)